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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )  
 )  
 )  
 )  
 )  
 )

No. CR 08-00361 RMW

**STIPULATION AND [ ]  
ORDER CONTINUING MOTIONS  
HEARING FROM MAY 18, 2009 TO  
JULY 13, 2009 AND EXCLUDING  
TIME FROM MAY 18, 2009 TO JULY  
13, 2009, FROM CALCULATIONS  
UNDER THE SPEEDY TRIAL ACT (18  
U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the motions hearing from May 18, 2009 to July 13, 2009, and excluding time from May 18, 2009 through July 13, 2009. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from May 18, 2009 through July 13, 2009 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review

1 and analyze this discovery.

2 In addition, on March 2, 2009, defendant filed a motion to suppress, a motion for a bill of  
3 particulars and a motion to strike one of the counts as multiplicitous. On May 4, 2009, defendant  
4 filed a supplemental motion to suppress. Argument for all of these motions is currently  
5 scheduled to be heard on May 18, 2009. On May 11, 2009, the government filed supplemental  
6 declarations in support of its opposition to defendant's motion to suppress. Defense counsel  
7 needs and has requested additional time to investigate and prepare for the motions hearing.  
8 Moreover, defense counsel will be away for a vacation in late May 2009. The government will  
9 be unavailable the last two weeks June. Therefore, for effective preparation and continuity of  
10 counsel and consideration of defendant's motion by the Court, the parties agree that the motions  
11 hearing currently scheduled for May 18, 2009 and should be continued to July 13, 2009 at 9 a.m.

12 2. The parties also need additional time to explore the possibility of a settlement in this  
13 case. The parties are scheduled to meet on May 20, 2009 to discuss such a settlement.

14 3. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
15 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
16 effective preparation of the defense; believes the exclusion is in the defendant's best interests;  
17 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for  
18 the period May 18, 2009 through July 13, 2009.

19 Given these circumstances, the parties believe, and request that the Court find, that the  
20 ends of justice are served by excluding from calculations the period from May 18, 2009 through  
21 July 13, 2009 outweigh the best interests of the public and the defendant in a speedy trial under  
22 the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

23 IT IS SO STIPULATED.

24 DATED: May 15, 2009

/s/ Richard Pointer  
RICHARD POINTER

25  
26  
27 DATED: May 15, 2009

/s/ Hanley Chew  
HANLEY CHEW  
Assistant United States Attorney

**[ ] ORDER**

Having considered the stipulation of the parties, the Court finds that: (1) the defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, May 18, 2009 through July 13, 2009, based upon continuity of defense counsel, the need for the defense counsel to investigate further the facts of the present case, review the discovery that the government has already provided and evaluate further possible defenses and motions available to the defendant; (2) the exclusion of time is necessary for effective preparation of the defense and continuity of counsel and is in the defendant's best interests; and (3) the ends of justice are served by excluding from Speedy Trial calculations the period May 18, 2009 through July 13, 2009.

Accordingly, the Court further orders that (1) the motions hearing set for May 18, 2009 is vacated and that the next appearance date before this Court is scheduled for July 13, 2009 at 9:00 a.m.; and (2) the time Argument for all of these motions are currently scheduled to be heard on May 18, 2009 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

IT IS SO ORDERED.

DATED: 7/16/09

  
THE HONORABLE RONALD M. WHYTE  
United States District Court Judge